



**NATIONAL SECURITY AGENCY**  
FORT GEORGE G. MEADE, MARYLAND 20755-6000

Case No. 66313/Appeal No. 3709  
Case No. 66312/Appeal No. 3708  
16 October 2012

Mr. Rich Jones  
MuckRock News, Dept MR 1066  
P.O. Box 55819  
Boston, MA 02205-5819

Dear Mr. Jones:

This replies to your letter, postmarked 5 July 2012, appealing the National Security Agency's (NSA's) determination that the existence or non-existence of the records you requested was exempt from release based on exemptions 1 and 3 of the Freedom of Information Act (FOIA). On 1 February 2012, you requested the following information:

- FOIA Case 66312 – “All documents mentioning Asrar Al-Moujahedeen encryption software.”
- FOIA Case 66313 – “All documents mentioning the 2048 bit public keys titled ‘Al-Ekhlaas Network ASRAR El Moujahedeen V2.0 Public Key.’”

The Chief of the FOIA/PA Office responded to you by letter, dated 3 May 2012, indicating that the fact of the existence or non-existence of the materials you request is a currently and properly classified matter in accordance with Executive Order 13526, as amended, and thus exempt from release based on exemption one. This letter also informed you that the existence or non-existence of this information was also protected from release by two exemption 3 statutes.

The initial denial letter advised you that any appeal of an adverse determination submitted to the NSA/CSS FOIA Appeal Authority must be *postmarked* within 60 days of the date of the initial denial. According to the Department of Defense Regulation 5400.7-R, Section C5.3.3.1, “If no appeal is received, or if the appeal is postmarked after the conclusion of this 60-day period, the appeal may be considered closed.” NSA responded to you by letter dated 3 May 2012. You did not contact NSA to indicate your intent to appeal within the 60-day timeframe, and your appeal was postmarked after the 60 days had passed. Therefore, your appeal has been administratively closed.

Sincerely,

for ARIANE E. CERLENKO  
Associate General Counsel (Litigation)